

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNAL SECURITY
WASHINGTON, D.C. 20515

CLAUDE PEPPER, FLA.
RICHARDSON PREYER, N.C.
ROBERT F. DRINAN, MASS.
MENDEL J. DAVIS, S.C.

JOHN M. ASHBROOK, OHIO
ROGER H. ZION, IND.
J. HERBERT BURKE, FLA.
TENNYSON GUYER, OHIO

ROBERT M. HORNER, STAFF DIRECTOR
WILLIAM H. HECHT, EXECUTIVE STAFF ASSISTANT
ALFRED M. NITTE, LEGISLATIVE COUNSEL

NINETY-THIRD CONGRESS

RICHARD H. ICHORD, MO., CHAIRMAN

July 2, 1973

DEWITT WHITE,
MINORITY LEGAL COUNSEL
HERBERT ROMERSTEIN,
MINORITY CHIEF INVESTIGATOR
JAMES L. GALLAGHER,
SENIOR RESEARCH ANALYST

Mr. William E. Colby
Director, Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Colby:

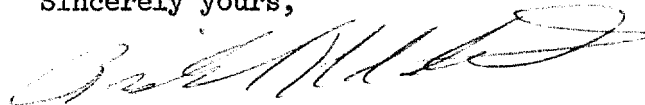
I seek your views with regard to the enclosed bill, H. R. 8865, which I (for myself and Mr. Preyer) introduced on June 20, 1973, and which has been referred to this Committee. Forwarded herewith is a copy of my statement in the House on introduction of the bill in explanation of its purpose and terms.

It would be helpful to our consideration of the measure if you would advise us whether your agency has—

- (1) any objections to its enactment;
- (2) if so, would you please specify and detail them; and
- (3) what recommendations or suggestions you may have for its improvement.

It is our desire to move ahead in the consideration of this measure. I would appreciate your review of the bill and a response to our inquiry at your earliest convenience.

Sincerely yours,



Richard H. Ichord
Chairman

RHI:amm

Enclosures 2 copies H. R. 8865
2 copies June 20 statement

CRC, 3/6/2003

Remarks of Congressman Richard H. Ichord
Chairman, Committee on Internal Security
U. S. House of Representatives

June 20, 1973

BILL TO ESTABLISH A CENTRAL SECURITY REVIEW OFFICE
(H. R. 8865)

Mr. Speaker:

I have today, with the gentleman from North Carolina (Mr. Preyer), introduced a bill to establish a Central Security Review Office for the coordination of the administration of Federal personnel loyalty and security programs. I have taken this action with a view toward implementing a recommendation to this effect made in the Preyer Report. This report of a subcommittee of the Committee on Internal Security which had the subject under consideration, titled "The Federal Civilian Employee Loyalty Program," House Report No. 92-1637, was the product of over two years of extensive inquiry into the operation and administration of laws and procedures underlying the Federal civilian employee loyalty-security program. Prepared by the distinguished gentleman from North Carolina (Mr. Preyer), the report is a thorough and detailed examination of the subject. A number of recommendations, both for legislative and executive branch action, have been made to remedy deficiencies appearing in the operation of the program and to improve it.

It was found that the absence of centralized direction was a major factor contributing to a number of failures which were found to exist in the administration of the program. The failure of the departments and agencies to update and maintain appropriate implementing regulations, the absence of uniformity in standards and practices, the delays and bypassing of responsibilities in loyalty adjudications, the failure in obvious cases to dismiss disloyal persons from non-sensitive positions, inadequacies in investigative or applicant forms and questionnaires, the failure to appeal lower court decisions adversely affecting the program, and generally the uneven capacity and expertise among personnel of the departments and agencies in the application of the program, are all in some measure, the subcommittee concluded, to be ascribed to this basic weakness in the organization of the program.

Under the complex of existing laws, orders, and regulations on this subject, we have a ship without a helmsman. While by the terms of section 14 of E. O. 10450 the Civil Service Commission is directed to make "a continuing study" of the manner in which

- 2 -

the order is being implemented by the departments and agencies and, by the provisions of section 13, the Attorney General is required to render advice to the heads of departments and agencies in the maintenance of an appropriate employee security program, these functions delegated and reposed in the Civil Service Commission and the Attorney General are at best advisory only. The delegation also suffers more gravely from the fact, as the Preyer Report points out, that it is reposed in two agencies which have primary operating responsibilities in the execution of the program. They should not be required to be the judge of their own performance.

Moreover, as the subcommittee advises, in reporting upon the successes or failures of a program in which they have operating responsibilities, these two agencies are not likely to acknowledge failures in their mission or in the execution of their responsibilities. It is not enough that the Civil Service Commission and the Attorney General should "report to the President" on the program. Obviously, in view of his many burdens the President cannot see to their day-to-day operation. He can maintain necessary oversight and exercise the required authority only through an independent centralized agency having responsibility for the coordination of the overall program with power to act, that is, not only to advise, but also to exercise the requisite executive authority.

While the discussion in the report and the recommendation on this subject was directed to the loyalty-security program maintained under E. O. 10450 and regulations of the Civil Service Commission, the bill would be applicable to all present loyalty and security programs, not only those relating to Federal civilian employment, but would also include the industrial security and industrial defense facilities programs administered by the Department of Defense, as well as the port and vessel security program now administered by the Department of Transportation under the Magnuson Act.

These are similar and related programs, a complex process of investigation, evaluation, and adjudication for determining suitability or eligibility of individuals for employment or access to sensitive facilities. Yet each has its own rubric, with widespread division of responsibilities among and within the agencies responsible for their administration. The programs encompass a vast field, involving literally millions of individuals in public and private employment. Huge sums are expended in their maintenance. Despite these facts there is no centralization of authority for oversight and coordination.

- 3 -

Take for example the operation and administration of the loyalty-security program relating to Federal civilian employment. Responsibility for the actual performance of investigations is divided among the Civil Service Commission, the Federal Bureau of Investigation, and those agencies maintaining investigative facilities, including the Departments of State, Defense, Treasury, Justice, and the Postal Service. Moreover, in some important aspects of the investigative process each employing department and agency of the Government is involved, at least to the extent of preparing and requiring response to applicant forms, in the conduct of interviews, and the review and evaluation of investigative reports.

Likewise in the evaluation and adjudication of an individual's suitability for employment, there is a division of responsibility between the Civil Service Commission and each of the employing departments and agencies. During the initial period of one year, after the effective date of an applicant's appointment, the Commission has jurisdiction concurrently with each of the departments and agencies to evaluate and adjudicate an applicant's suitability for employment on loyalty grounds. The Commission's authority, however, is exercised only with respect to individuals seeking appointment in the competitive service, and access to non-sensitive positions therein.

With respect to sensitive positions in the competitive service and all positions in the excepted service, the departments and agencies are confided sole authority or responsibility for denials or removals on loyalty, security, and other suitability grounds. After the expiration of the one year period, the departments and agencies are each confided sole responsibility for the removal of persons in all positions for whatever cause. There is, moreover, an absence of uniformity of practice among and within the agencies, and it is evident from the testimony adduced that there is considerable confusion among administrative personnel as to their authority, and a noticeable disparity in the adequacy of their training.

It is evident that this widespread division of responsibility inevitably presents opportunities for a duplication of effort or a bypassing of responsibility. We do not by any means suggest that a system of divided or concurrent responsibility is in itself an evil. On the contrary, under certain circumstances it may well be a positive virtue, particularly in the field of intelligence so as to minimize the possibility for sabotage of the program. Nor do we by any means suggest that responsibility for the evaluation and adjudication of employee eligibility be withdrawn from the departments and agencies. It is important that

- 4 -

these responsibilities be retained by them and that they carry them out. It is nevertheless a condition which requires centralized direction so as effectively to coordinate the effort, to cope with uneven capacities of the participants, and to avoid waste. Indeed, we believe that several millions of dollars can be saved through such centralized control. A present cost study undertaken by the Government Accounting Office, when completed, we believe, will fully support this conclusion.

The need for centralized direction for such programs has long been recognized but never remedied. In the first comprehensive review of the loyalty program undertaken by the Government, President Truman's Commission on Employee Loyalty, in November 1946, recommended that an independent overall centralized authority, acting for and on behalf of the President, be created to oversee the responsibilities conferred upon the departments and agencies in the execution of a loyalty program. Pursuant to this recommendation, such an agency was created and designated the Loyalty Review Board on the promulgation in 1947 of E.O. 9835, the first comprehensive loyalty program ever established by the United States Government. The Board, however, was established with advisory powers only, and there was some confusion as to its responsibilities which led to litigation. Again in 1952, the Interdepartmental Committee on Internal Security of the National Security Council, which conducted an investigation of the employee "security program" (as distinguished from the then existing "loyalty program"), undertaken at the direction of President Truman, again found need for a central review of procedures pursued by the departments and agencies.

Prior to the 1953 change in administration, President Truman had appointed a committee to study the implementation of these recommendations and to combine the loyalty, security, and suitability programs. Its work was not completed when President Eisenhower took office and, in April of 1953, he revoked E. O. 9835 on the promulgation of E. O. 10450. This superseding order, now in effect, substantially adopted the basic loyalty program of the prior Truman order, but in line with some recommendations derived from the prior studies which had been initiated by President Truman, the new order combined the security program with the principal features of the loyalty program previously in effect.

The new order, however, failed to provide for a centralized agency to coordinate the newly combined programs. This order which, together with Civil Service regulations, form the basis for the present Federal civilian loyalty and security programs, have not been wholly effective. The absence of centralized direction has proved to be a grave point of weakness.

- 5 -

This has been found to be so not only in a privately conducted examination of its administration by a Special Committee of the New York City Bar Association, which reported in 1956, but also by a nonpartisan Government commission created by joint resolution of the Congress in 1955, known as the Wright Commission, which had undertaken investigation and inquiry of all security programs administered by the Government. Reporting in 1957, the Wright Commission's recommendation that a central security office be established has likewise never been implemented. A similar recommendation now made in the report of the subcommittee of the Committee on Internal Security, to which I have referred, remains to be acted upon.

The bill would thus establish a Central Security Review Office in the Executive Office of the President headed by a Director, who will be assisted by a Deputy Director and three Assistant Directors, to coordinate the programs and to require compliance with the directives of the Office when approved by the President. The Director's principal functions will be, in short, as follows:

- (1) To conduct continuing surveys and inspections of the administration of loyalty and security programs, and on the basis of these surveys and inspections the Director shall make recommendations to the executive agencies concerned for such changes in loyalty and security regulations, practices and procedures, as he determines to be necessary or advisable in the interest of uniformity, simplicity, effectiveness, and economy.
- (2) To compile and maintain appropriate statistical records with respect to the results of each loyalty and security program administered or supervised by executive agencies.
- (3) To prepare plans and recommendations for suitable in-service training programs to provide for the instruction of security officers in all relevant aspects of their duties and to provide for an adequate and free-flow of information between them and the intelligence community.

- 6 -

(4) To receive, investigate, and evaluate complaints made on behalf of Federal employees by recognized labor or employee organizations, or by Government contractors and labor organizations with respect to the administration of loyalty and security programs.

(5) On the approval of the President to promulgate such rules and regulations as the Director may determine to be necessary to provide for the uniform, effective, and economical administration of the loyalty and security programs.

(6) To make annual reports to the President and the Congress concerning the operations of the Office and to make such special reports concerning the operation of any loyalty and security program upon request made by the President, the Congress, or either House thereof, or any committee or subcommittee of either House having oversight responsibilities regarding the administration of the Act.

I believe this bill is a much needed corrective measure. I shall welcome the comments of Members and the public on the measure, and will seek their testimony in hearings on the bill.

CONFIDENTIAL

JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Friday - 6 July 1973

25X1

1. [] Returned to Ed Braswell, Chief Counsel, Senate Armed Services Committee, a Xerox copy of the transcript of Mr. Colby's confirmation hearing of 2 July with all corrections made. See Memorandum for the Record.

In talking about the budget hearing before the CIA Subcommittee next Tuesday Braswell mentioned that Senator Symington would want a transcript but did not want this discussed with the Agency in advance. Braswell and I agreed that we would have a security escort available to accompany the short-hand reporter to Ward and Paul to transcribe the record.

25X1A

He also mentioned that Senator Symington might want to take up the question of [] in the executive session.

25X1

2. [] Hand-carried to the Senate Armed Services Committee three inserts provided by EA Division for insertion in the record of the CIA/DOD briefing on Laos on 27 June. I also entered in the original transcript corrections of Agency testimony given me by []

25X1A

25X1A
25X1

3. [] [] NSA, called to double check on the scheduled briefings of the Senate Appropriations Committee on 11 July and 12 July. I told him that as far as I knew the briefings were still on and I would let him know if I knew of any change.

25X1A

[] also mentioned that NSA had received an inquiry from Chairman Ichord, House Internal Security Committee, requesting NSA's views on H. R. 8865, "Central Security Review Office Act" (to establish a loyalty and

25X1A

security program). I told [] we had also received an inquiry from Ichord and we agreed to consult with one another in preparing our positions. [] commented he thought we should both go for exemption and I told him that had been our position in the past and I assumed it would be our position now.

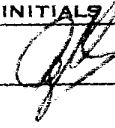
25X1A

25X1A

[] also mentioned that Chairman Moss was scheduled to begin hearings on the polygraph starting next week.

CONFIDENTIAL

2 IMPDET CL BY *Signer*

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
<input type="checkbox"/>	UNCLASSIFIED	<input type="checkbox"/>	CONFIDENTIAL
<input type="checkbox"/>		<input type="checkbox"/>	SECRET
OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	Legislative Counsel		
2			
3			
4			
5			
6			
<input checked="" type="checkbox"/>	ACTION	<input type="checkbox"/>	DIRECT REPLY
<input type="checkbox"/>	APPROVAL	<input type="checkbox"/>	DISPATCH
<input type="checkbox"/>	COMMENT	<input type="checkbox"/>	FILE
<input type="checkbox"/>	CONCURRENCE	<input type="checkbox"/>	INFORMATION
<input type="checkbox"/>		<input type="checkbox"/>	PREPARE REPLY
<input type="checkbox"/>		<input type="checkbox"/>	RECOMMENDATION
<input type="checkbox"/>		<input type="checkbox"/>	RETURN
<input type="checkbox"/>		<input type="checkbox"/>	SIGNATURE
Remarks: <p style="text-align: center;">For preparation of response for Mr. Colby's signature.</p>			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME.		DATE	
O/ES/CIA MC/		7E26	3 July 73
<input type="checkbox"/>	UNCLASSIFIED	<input type="checkbox"/>	CONFIDENTIAL
<input type="checkbox"/>		<input type="checkbox"/>	SECRET

25X1A